UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,180	12/29/2000	Carmel Chi Him Lau	TPL 124	5839

26541 7590 12/01/2004		EXAMINER
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ART UNIT	PAPER NUMBER
2661	

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/750,180	LAU ET AL.
	Examiner	Art Unit
	Ian N Moore	2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *the amendment filed on 02 September 2004*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-31* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-13,19-21 and 24-26* is/are allowed.

6)☒ Claim(s) *14-18,22,23 and 27-29* is/are rejected.

7)☒ Claim(s) *30* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *29 December 2000* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date *11-23-04*.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   Claim objection, on claim 1 is withdrawn since it is being amended accordingly.

2.   Claims 14-18,22 and 23 are rejected by the same ground of rejections.

3.   Claims 27-29 and 31 are rejected by the new ground(s) of rejection necessitated by the

amendment.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

5.   Claims 14-18,22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Raab in view of Marimuthu (U.S. 5,878,232).

Regarding Claims 14 and 22, Raab discloses a computer program embodied on a

computer readable medium **(see method/computer program processes FIG. 15 and 16; see**

FIG. 4, a combined system of VAC manager 320, VAC process 331, Topology Tables

332 and VLAN devices 410 performs the method) for preventing a topology with partially

intersecting VLANs **(see FIG. 1a and 1b, VLANs within Switch Inter-networks; see col.**

5, lines 15-19) by restricting the assignment of VLANs associated with a network element

(see FIG. 4, VLAN device 410) to executed a method comprising the code segment for:

defining a new network circuit (**see col. 7, lines 45-50; a new network
path/circuit/route of the newly added end-station**) for the network element (**see col. 7,
lines 56-59; note that a new network path/circuit/route, which needs to be
configured/re-configured, is determined/defined for the VLAN device**);

Assigning a test VLAN (**see col. 14, lines 1-3, 50-63; VLAN creation**) to the new
network circuit (**see col. 8, lines 5-19, col. 14, lines 28-30, col. 16, lines 1-12; note that a
VLAN is created/assigned for the new network path/circuit/route**);

determining assignments of VLANs to other defined network circuits associated with
the network element (**see FIG. 15a, 1504, 1506, 1512 and FIG. 15b, steps 1516,1518; see
FIG. 16, step 1602; col. 6, lines 30-45, col. 8, lines 36-46, col. 13, lines 64-67; note that
the existing/assigned VLANs (i.e. topology tables) associated/related to other network
path/route/circuit are determined**), and

associating the route to the test VLAN if the test VLAN intersects entirely and
identical with one of the other VLANs (**see FIG. 15a, step 1506, see FIG. 15b, step 1518,
see FIG. 16, step 1602 and 1606; see col. 8, lines 5-19, col. 14, lines 28-30, col. 15, lines
60-67, col. 16, lines 1-12; note that before assigning a VLAN to the new network
path/route/circuit, the method/step determines whether/if the VLAN is
identical/entirely-interest with one of the existing VLANs. Then, the new network
route/path/circuit is associated/related to the VLAN**),

wherein the assigned route will be identical to route associated with the one of the
other assigned VLANs (**see FIG. 16, step 1604 and 1608; see col. 7, lines 53-56, see col. 15,
lines 55- to col. 16, lines 1, 14-20; note that the new network route/path/circuit is**

identical to the route of existing VLAN if the newly added station is utilized the same existing VLAN);

Raab does not explicitly disclose associating a spanning tree to the VLAN.

However, the above-mentioned claimed limitations are taught by Marimuthu. In particular, Marimuthu teaches associating a spanning tree/route to the VLAN **(see col. 2, line 35-40; note that spanning tree procedure is performed on each VLAN, thereby, associating a spanning tree to the VLAN).**

In view of this, having the system of Raab and then given the teaching of Marimuthu, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Raab, by providing a mechanism of associating a spanning tree procedure on each VLAN, as taught by Marimuthu. The motivation to combine is to obtain the advantages/benefits taught by Marimuthu since Marimuthu states at col. 1, line 51-61 that such modification would overcome any topology that forms routing loops.

Regarding claim 15, the combined system of Raab and Marimuthu discloses all aspects of the claimed invention set forth in the rejection of Claim 14 as described above. Marimuthu further teaches running a unique spanning tree/route for each unique VLAN assigned to the network element **(see col. 2, line 35-40; note that spanning tree procedure is performed on each VLAN; thus, it is clear a unique spanning tree procedure is performing to each VLAN).**

In view of this, having the system of Raab and then given the teaching of Marimuthu, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Raab, by providing a mechanism of performing a

spanning tree procedure on each VLAN, as taught by Marimuthu, for the same motivation

that stated above in Claim 14.

Regarding Claims 16 and 23, Raab discloses a computer program embodied on a

computer readable medium (see method/computer program processes FIG. 15 and 16; see

FIG. 4, a combined system of VAC manager 320, VAC process 331, Topology Tables

332 and VLAN devices 410 performs the method) for preventing a topology with partially

intersecting VLANs (see FIG. 1a and 1b, VLANs within Switch Inter-networks; see col.

5, lines 15-19) by restricting the assignment of VLANs associated with a network element

(see FIG. 4, VLAN device 410) to executed a method comprising the code segment for:

defining a new network circuit (see col. 7, lines 45-50; a new network

path/circuit/route of the newly added end-station) for the network element (see col. 7,

lines 56-59; note that a new network path/circuit/route, which needs to be

configured/re-configured, is determined/defined for the VLAN device);

assigning a test VLAN (see col. 14, lines 1-3, 50-63; VLAN creation) to the new

network circuit (see col. 8, lines 5-19, col. 14, lines 28-30, col. 16, lines 1-12; note that a

VLAN is created/assigned for the new network path/circuit/route);

determining assignments of VLANs to other defined network circuits associated with

the network element (see FIG. 15a, 1504, 1506, 1512 and FIG. 15b, steps 1516,1518; see

FIG. 16, step 1602; col. 6, lines 30-45, col. 8, lines 36-46, col. 13, lines 64-67; note that

the existing/assigned VLANs (i.e. topology tables) associated/related to other network

path/route/circuit are determined), and

associating the route to the test VLAN if the test VLAN is completely distinct from

all of the other VLAN assignments (**see FIG. 15a, step 1506, see FIG. 15b, step 1518, see**

FIG. 16, step 1602 and 1606; see col. 8, lines 5-19, col. 14, lines 28-30, col. 15, lines 60-67,

col. 16, lines 1-12; note that before assigning a VLAN to the new network

path/route/circuit, the method/step determines whether/if the VLAN is completely-

distinct/new compare to the existing VLANs. Then, the new network route/path/circuit

is associated to the VLAN),

Raab does not explicitly disclose associating a spanning tree to the VLAN.

However, the above-mentioned claimed limitations are taught by Marimuthu. In

particular, Marimuthu teaches associating a spanning tree/route to the VLAN (**see col. 2, line**

35-40; note that spanning tree procedure is performed on each VLAN, thereby,

associating a spanning tree to the VLAN).

In view of this, having the system of Raab and then given the teaching of Marimuthu,

it would have been obvious to one having ordinary skill in the art at the time the invention

was made to modify the system of Raab, by providing a mechanism of associating a spanning

tree procedure on each VLAN, as taught by Marimuthu. The motivation to combine is to

obtain the advantages/benefits taught by Marimuthu since Marimuthu states at col. 1, line 51-

61 that such modification would overcome any topology that forms routing loops.

Regarding claim 17, the combined system of Raab and Marimuthu discloses all

aspects of the claimed invention set forth in the rejection of Claim 16 as described above.

Marimuthu further teaches wherein the new spanning tree is completely unique from all other

associated spanning trees (**see col. 2, line 35-40; note that unique spanning tree procedure**

is performed on each VLAN; thus, one a spanning tree procedure is unique from all spanning tree procedures performed at VLANs).

In view of this, having the system of Raab and then given the teaching of Marimuthu, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Raab, by providing a mechanism of performing a spanning tree procedure on each VLAN, as taught by Marimuthu, for the same motivation that stated above in Claim 16.

Regarding claim 18, the combined system of Raab and Marimuthu discloses all aspects of the claimed invention set forth in the rejection of Claim 14 as described above. Raab wherein the route is identical to the route associated with one of the other VLAN assignments if the one of the other VLAN assignments has an identifier (**see FIG. 7, Table 700; see col. 9, lines 45-50**) that is identical to an identifier associated with the test VLAN (**see FIG. 15a, step 1506, see FIG. 15b, step 1518, see FIG. 16, step 1602 and 1606; see col. 8, lines 5-19, col. 14, lines 28-30, col. 15, lines 60-67, col. 16, lines 1-12; note that before assigning a VLAN to the new network path/route/circuit, the method/step determines whether/if the VLAN ID/number is identical with one of the existing VLANs IDs/numbers. Then, the new network route/path/circuit is associated to the VLAN ID**). Marimuthu teaches associating a spanning tree/route to the VLAN (**see col. 2, line 35-40; note that spanning tree procedure is performed on each VLAN, thereby, associating a spanning tree to the VLAN**).

In view of this, having the system of Raab and then given the teaching of Marimuthu, it would have been obvious to one having ordinary skill in the art at the time the invention

was made to modify the system of Raab, by providing a mechanism of performing a

spanning tree procedure on each VLAN, as taught by Marimuthu, for the same motivation

that stated above in Claim 16.

6.   Claim 27-29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Merchant'088 in view of Marimuthu.

Regarding Claim 27, Merchant'088 discloses a network device (**see FIG. 2,**

multiport switch 12) for preventing a network from having a topology with partially

intersecting VLANs (**see FIG. 1, VLANs environments between network nodes 14 and**

22; see col. 1, lines 35-36), the network device comprising:

Memory (**see FIG. 2, External memory 44; see col. 4, lines 8-15**);

one or more network interfaces (**see FIG. 1, MAC modules 20 to transmit and**

receives packets; see col. 2, lines 66-67); and

a processor (**see FIG. 4, a combined system of Internal Rule Checker IRC 40,**

CPU IF 50, and optional host CPU 32) configured to perform the steps of defining a new

network circuit for the network device (**see col. 9, lines 26-30; note that the DA lookup**

engine (i.e. IRC) defines/classifies the new network circuit/route of the received frame

by looking up the address for the switch 12);

assigning a test VLAN to the new network circuit (**see col. 9, lines 39-46; note that**

the combined system assigns/programs a VLAN to the new network circuit/route of the

received frame);

determining assignments of VLANs to other network circuits associated with the

network device (see **FIG. 4, VLAN Configuration and Status Register 52; see col. 9, lines**

26-35, 52-56; note that the combined system determines the VLANs in the VLAN

register 52 to other network circuits/routes associated with the ports of the switch 12);

and

determining if the test VLAN is acceptable (see col. 9, lines 44-45, 50-55; note that

the combined system determines a VLAN in the VLAN register 52 and assigns a VLAN

for the new network circuit/path/route. Thus, it is clear that the VLAN is acceptable).

Raab does not explicitly discloses spanning tree processing. However, Marimuthu

teaches a new spanning tree processing (see col. 2, line 333-40, 47-50, 62-65; abstract note

that the spanning tree procedure is performed to VLANs).

In view of this, having the system of Merchant'088 and then given the teaching of

Marimuthu, it would have been obvious to one having ordinary skill in the art at the time the

invention was made to modify the system of Merchant'088, by providing a mechanism of a

spanning tree procedure on the VLAN, as taught by Marimuthu. The motivation to combine

is to obtain the advantages/benefits taught by Marimuthu since Marimuthu states at col. 1,

line 51-61 that such modification would overcome any topology that forms routing loops.

Regarding claim 28, Merchant'088 discloses determining if the test VLAN is

completely distinct from all of the other VLAN assignments (see col. 9, lines 26-35, 52-56;

note that the combined system must determine whether/if a VLAN is completely-

distinct/new according to the other VLANs in the VLAN register 520 before a VLAN is

assigned); and

accepting the test VLAN in response to a determination that the test VLAN is completely distinct from all of the other VLAN assignments (**see col. 9, lines 44-45, 50-55; after the combined system determines that a VLAN is new/completely-distinct according to the other VLANs in the VLAN register 52, it assigns a VLAN for the new network circuit/path/route**).

Regarding claim 29, Merchant'088 discloses determining if the test VLAN intersects entirely with one of the VLAN (**see col. 9, lines 26-35, 52-56; note that the combined system must determine whether/if a VLAN intersects-entirely/identical to the other VLANs in the VLAN register 520 before a VLAN is assigned**); and

accepting the test VLAN in response to a determination that the test VLAN intersects entirely with one of the other VLANs (**see col. 8, lines 45-50; col. 9, lines 44-45, 50-55, col. 11, lines 24-27; after the combined system determines that a VLAN is identical/matched according to the other VLANs in the VLAN register 52, it must assign a VLAN from within one of the existing VLANs (i.e. unmodified VLAN since VLAN is already defined/assigned) for the new network circuit/path/route**).

Regarding claim 31, Merchant'088 does not explicitly disclose associating a new spanning tree to the test VLAN, responsive to a determination the test VLAN. Marimuthu teaches associating a new spanning tree to the test VLAN, responsive to a determination that the test VLAN is acceptable (**see col. 2, line 333-40, 47-50, 62-65; note that the spanning tree procedure is performed to the new VLAN responsive/reactive to creating a new/test VLAN**).

In view of this, having the system of Merchant'088 and then given the teaching of

Marimuthu, it would have been obvious to one having ordinary skill in the art at the time the

invention was made to modify the system of Merchant'088, by providing a mechanism of

associating a spanning tree procedure on the new VLAN, as taught by Marimuthu. The

motivation to combine is to obtain the advantages/benefits taught by Marimuthu since

Marimuthu states at col. 1, line 51-61 that such modification would overcome any topology

that forms routing loops.

Allowable Subject Matter

7.   Claims 1-13, 19-21, and 24-26 are allowed.

8.   Claim 30 is objected to as being dependent upon a rejected base claim, but would be

allowable if rewritten in independent form including all of the limitations of the base claim and

any intervening claims.

Response to Arguments

9.   Applicant's arguments with respect to claims 27-29, and 31 have been considered but are

moot in view of the new ground(s) of rejection.

10.   Applicant's arguments filed 9-2-2004 have been fully considered but they are not

persuasive.

   Regarding claims 14 and 22, the applicant argued that, "…the rejection does not

disclosure or suggestion …associating a spanning tree to the test VLAN if the test VLAN

intersect with one of the other VLANs…" in page 9, 2nd paragraph.

In response to applicant's argument, the examiner respectfully disagrees that the rejection does not disclosure or suggests associating a spanning tree to the test VLAN if the test VLAN intersect with one of the other VLANs. Raab discloses assigning a test VLAN **(see col. 14, lines 1-3, 50-63; VLAN creation)** to the new network circuit **(see col. 8, lines 5-19, col. 14, lines 28-30, col. 16, lines 1-12; note that a VLAN is created/assigned for the new network path/circuit/route)**; associating the route to the test VLAN if the test VLAN intersects entirely and identical with one of the other VLANs **(see FIG. 15a, step 1506, see FIG. 15b, step 1518, see FIG. 16, step 1602 and 1606; see col. 8, lines 5-19, col. 14, lines 28-30, col. 15, lines 60-67, col. 16, lines 1-12; note that before assigning a VLAN to the new network path/route/circuit, the method/step determines whether/if the VLAN is identical/entirely-interest with one of the existing VLANs. Then, the new network route/path/circuit is associated/related to the VLAN)**. Clearly, examiner asserts "association" as "matching **yes**" (see FIG. 15a, step 1506; FIG. 15b, step 1518), "matching **yes**" (see FIG. 16, step 1602 and 1606), which assigns a VLAN (for the new route/path/circuit) with associated/related matched VLAN.

As described above, a test/temporary VLAN is created/assigned for the new network path/circuit/route. Thus, when processing a test/temporary VLAN, it is processing for the new network path/circuit/route. Step 1518 of FIG. 15b and step 1602/1606 clearly discloses determining if the test/new VLAN (for the new network circuit/path/route) intersects entirely and identical with one of the VLANs by matching whether the test/new VLAN (for the new network circuit/path/route) is on the policy table of already existing VLANs, and if it is, the new network route/path/circuit is associated/related to the VLAN. Note that a policy table

includes the VLANs information such as domain index, policy #, Member type, member

identifier, member mask, allow/disallow, and priority; see FIG. 5-10, policy table(s); see col.

8, lines 50 to col. 10, lines 59). Thus, it is clear that Raab associates/matches the

test/temporary VLAN (for the new network circuit/path/route) if the test/temporary VLAN

matches (i.e. intersects entirely and identical) with one the VLANs (defined in the policy

table).

Marimuthu teaches associating a spanning tree/route to the VLAN (**see col. 2, line**

35-40; note that spanning tree procedure is performed on each VLAN, thereby,

associating a spanning tree to the VLAN). Thus, it clear the combined system of Raab and

Marimuthu discloses associating a spanning tree to the test VLAN if the test VLAN intersect

with one of the other VLANs.

Regarding claims 16 and 23, the applicant argued that, "…associating a spanning

tree to the test VLAN if the test VLAN completely distinct with one of the other

VLANs…citation of disclosure in Raab for this feature is not on the point…" in page 9, 3rd

paragraph.

In response to applicant's argument, the examiner respectfully disagrees that

associating a spanning tree to the test VLAN if the test VLAN completely distinct with one

of the other VLANs…citation of disclosure in Raab for this feature is not on the point.

Raab discloses the assigning a test VLAN (**see col. 14, lines 1-3, 50-63; VLAN**

creation) to the new network circuit (**see col. 8, lines 5-19, col. 14, lines 28-30, col. 16, lines**

1-12; note that a VLAN is created/assigned for the new network path/circuit/route);

associating the route to the test VLAN if the test VLAN is completely distinct from all of the

other VLAN assignments (**see FIG. 15a, step 1506, see FIG. 15b, step 1518, see FIG. 16,**
step 1602 and 1606; see col. 8, lines 5-19, col. 14, lines 28-30, col. 15, lines 60-67, col. 16,
lines 1-12; note that before assigning a VLAN to the new network path/route/circuit, the
method/step determines whether/if the VLAN is completely-distinct/new compare to the
existing VLANs. Then, the new network route/path/circuit is associated to the VLAN).
Clearly, examiner asserts "association" as "matching **no**" (see FIG. 15a, step 1506; FIG. 15b,
step 1518), "matching **no**" (see FIG. 16, step 1602 and 1606), which assigns a new VLAN
(for the new route/path/circuit) with associated/related unmatched VLAN.

As described above, a test/temporary VLAN is created/assigned for the new network
path/circuit/route. Thus, when processing a test/temporary VLAN, it is processing for the
new network path/circuit/route. Step 1518 of FIG. 15b and step 1602/1606 clearly discloses
determining if the test/new VLAN (for the new network circuit/path/route) intersects entirely
and identical with one of the VLANs by matching whether the test/new VLAN (for the new
network circuit/path/route) is on the policy table of already existing VLANs, and if it does
not, the new network route/path/circuit is associated/related to the unmatched VLAN. Note
that a policy table includes the VLANs information such as domain index, policy #, Member
type, member identifier, member mask, allow/disallow, and priority; see FIG. 5-10, policy
table(s); see col. 8, lines 50 to col. 10, lines 59). Thus, it is clear that Raab associates/matches
the test/temporary VLAN (for the new network circuit/path/route) if the test/temporary
VLAN matches (i.e. completely distinct) with one the VLANs (defined in the policy table).

Marimuthu teaches associating a spanning tree/route to the VLAN (**see col. 2, line**
35-40; note that spanning tree procedure is performed on each VLAN, thereby,

associating a spanning tree to the VLAN). Thus, it clear the combined system of Raab and Marimuthu discloses associating a spanning tree to the test VLAN if the test VLAN intersect with one of the other VLANs.

The applicant argued that, "…requirement of a prima facie case of obviousness have also not been met. No suggestion to combine has been identified…does not suggest or motivate a combination of the VLAN configuration methods found in each references … " page 9, 4th paragraph and

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to combine is to obtain the advantages/benefits taught by Marimuthu since Marimuthu states at col. 1, line 51-61 that such modification (providing a mechanism of associating a spanning tree procedure) would overcome any topology that forms routing loops.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The applicant argued that, "…how merger-based technique of VLAN configuration taught by Marimuthu would even fit within the configuration procedures outlined by Raab…" page 9, 4th paragraph and page 10, 1st paragraph.

In response to applicant's argument that regarding "fitting one reference to the other", the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). In this case, examiner is using the **teaching** of Marimuthu's regarding the spanning tree mechanism in VLAN, not bodily fitting Marimuthu into Raab.

In view of the above, **the examiner respectfully disagrees** with applicant's argument and believes that the combination of references as set forth in the 103 rejections is proper, thus, Claims 14-23 are obvious over Raab in view of Marimuthu for at least the reasons discussed above.

Conclusion

11.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

12.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Ian N Moore whose telephone number is 571-272-3085. The

examiner can normally be reached on M-F: 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ken Vanderpuye can be reached on 571-272-3078. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

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